

accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) Enforcement

The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 6808 of this title.

(Pub. L. 103–190, §8, Dec. 14, 1993, 107 Stat. 2285.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6809 of this title.

§ 6808. Enforcement

(a) Jurisdiction

A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this chapter or an order or regulation issued by the Secretary under this chapter.

(b) Referral to Attorney General

A civil action brought under subsection (a) of this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or an order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to the person who committed or is committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

(A) In general

A person who violates a provision of this chapter, or an order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this chapter, may be assessed by the Secretary—

(i) a civil penalty of not less than \$500 nor more than \$5,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) Separate offenses

Each violation shall be a separate offense.

(2) Cease and desist orders

In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this chapter, or

an order or regulation issued under this chapter.

(3) Notice and hearing

No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 6809(b)(2) of this title and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) Finality

The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

(A) In general

Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) of this section may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—

(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and

(ii) sending a copy of the notice by certified mail to the Secretary.

(B) Copy of record

The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person had committed a violation.

(2) Standard of review

A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey order

(1) In general

A person who fails to obey a cease and desist order issued under subsection (c) of this section after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than \$5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section.

(2) Separate violations

Each day during which the person fails to obey an order described in paragraph (1) shall

be considered as a separate violation of the order.

(f) Failure to pay penalty

(1) In general

If a person fails to pay a civil penalty assessed under subsection (c) or (e) of this section after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.

(2) Scope of review

In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 103–190, § 9, Dec. 14, 1993, 107 Stat. 2286.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6802, 6807, 6809 of this title.

§ 6809. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this chapter, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter or any order or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

(1) Investigations

For the purpose of making an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6807(a)(2) or 6808(c)(3) of this title, the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) Aid of courts

(1) In general

In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) of this section to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the in-

vestigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b) of this section.

(2) Order

The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) Failure to obey

Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) Process

Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.

(Pub. L. 103–190, § 10, Dec. 14, 1993, 107 Stat. 2288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6802, 6807, 6808 of this title.

§ 6810. Confidentiality

(a) Prohibition

No information on how a person voted in a referendum conducted under this chapter shall be made public.

(b) Penalty

Any person who knowingly violates subsection (a) of this section or the confidentiality terms of an order, as described in section 6804(j)(2) of this title, shall be subject to a fine of not less than \$1,000 nor more than \$10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.

(c) Additional prohibition

No information obtained under this chapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this chapter or an investigatory or enforcement action necessary for the implementation of this chapter.

(d) Withholding information from Congress prohibited

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(Pub. L. 103–190, § 11, Dec. 14, 1993, 107 Stat. 2288.)

§ 6811. Authority for Secretary to suspend or terminate order

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this chapter specified in section 6801(b) of this title, the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

(Pub. L. 103–190, § 12, Dec. 14, 1993, 107 Stat. 2289.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6802 of this title.